

The gentleman I take him to be, he will
reign, above argument with the
methods of which his election was
procured — That will ensure
another vacancy for the other
member who was fundamentally
dependent of his seat —

As to your resolution —
I have not the charter and by law
by me here; but I will say this. If
you care me examination you find
nothing in them inconsistent with
your resolution — that is to say —
No provision for filling vacancies

Hotel Lenox
Lakeview N. Y.
13 Apr 1901

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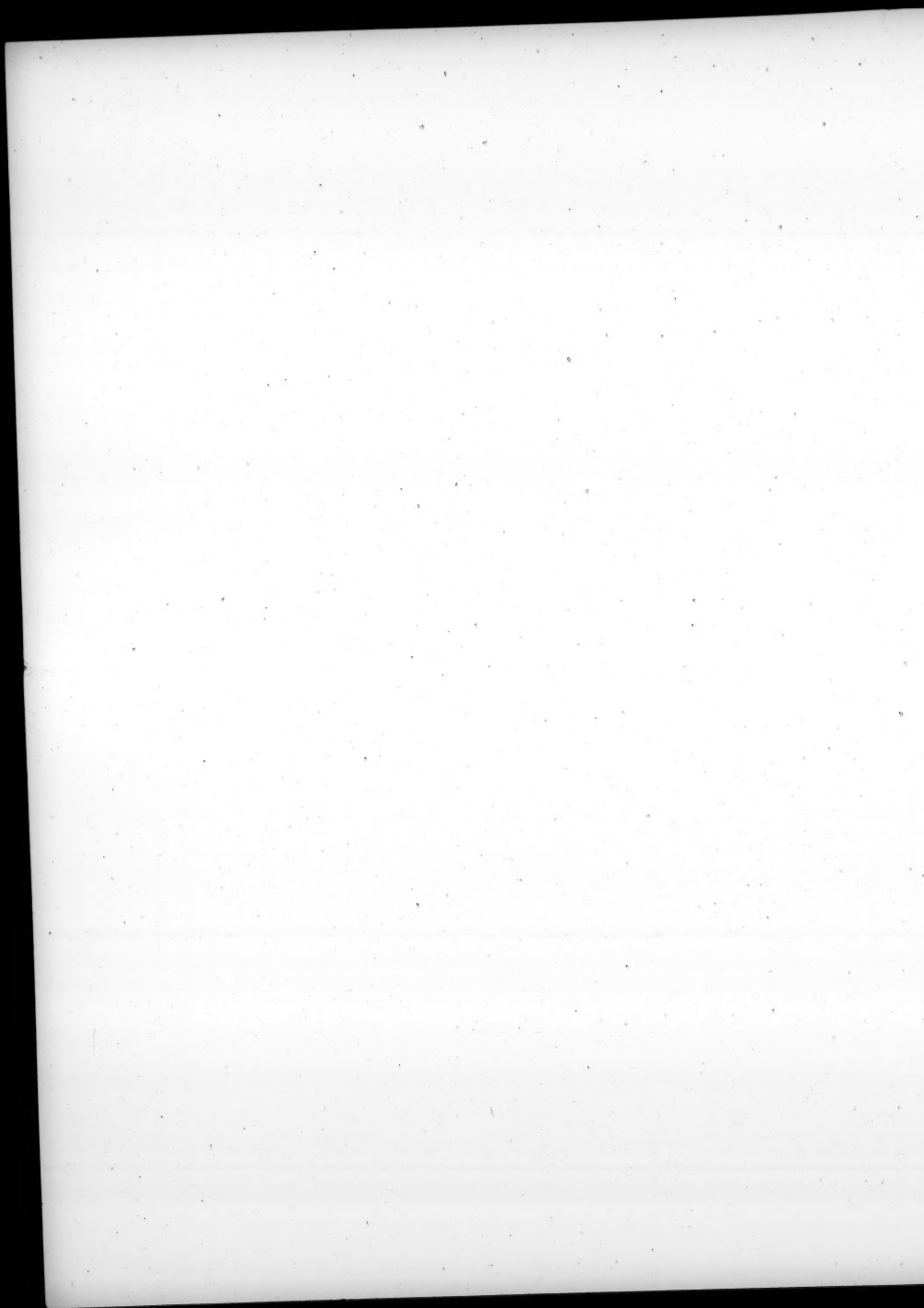
William White Jr Esq
Phila

My dear Mr White

Your letter of the 10th inst.
which has been forwarded to me at
his place, was received yesterday. Oh,
and ~~last~~ if a small bomb shell had
exploded in my apartment, at the
same hour, I could scarcely have
been more astonished. It is, I
hope, hardly necessary for me to say
that I was entirely ignorant that any
such kind was contemplated,

or that I ever authorized my
name to be placed upon a
ticket omitting J. D. Costa
and Wood, or that I had
any knowledge whatever that
any such scheme was in
progress - or thought of, or
suggested by any body - As
you relate it, it seems to me
to have been a very bold, and
dastardly, and flagitious
act upon the part of whom
was engaged in it - But Mr.
Montgomery, in my opinion, made
a mistake in assigning I

Take it for granted the Society
could not accept his resignation.
He should have held on, in
order to assist in rectifying
the wrong & the gentlemen
who were overruled by
this secret conspiracy, and
put out of the Society by a
very shabby trick - They
must be re-instructed if possible
As Mr. Dr. Newbold speaks
to some that even a Society
without the Society has the right to
fill after the adoption of your
Resolution, and if Dr. Weston is



3-

in the Vestry which occur during the
 Year - You may take it for
 certain that the Vestry have the
 right to pass such a Resolution as
 the one you introduced - And that
 it will be as valid and binding
 a law as any which already
 exist - You will perceive, that, if
 the Law were otherwise, if it should
 so happen that vacancies should
 occur from death, resignation or
 otherwise during the Year, sufficient
 in number to destroy a quorum,

No legal meeting would be in
existence, and the Corporation
would be coram populo - dead -
for the rest of the year, and until
the next election, in the absence
of any provision in the Charter for
special elections to fill vacancies
in the body - Of course the
Law would not permit of any
such futile and absurd
result as this.

I have come here for
the benefit of my health

and probably will not
return to him for a
week or two.

I am always with
Gent Egypt
H. M. M.

W. R. M. M.

Not been long ago adopted by the Vestry,
as they are both very proper by law, for the
purpose of preserving the integrity of the
Vestry and the proper conduct of elections of
Bishopsmen. I use the word "integrity" of course
not in its same common and popular sense
but in the sense of "entirety" which is.
I apprehend the original and proper meaning
of the word. I have not received any official
notice that my opinion is desired by the Vestry
upon these subjects, although I have been
unofficially informed that such is the case.
If this be so, this letter to Wm. White Jr.
may stand for such opinion.

Wm. White Jr.
April 18, 1901

Hotel Lindx
Lakewood N. Jersey
Apr 18, 1901

6 Copies

Wm. White Sr & Co.
Dear Mr White

Article VII, Sec 2, of the
Legislative Supplement to the Charter of Christ
Church and St Peter, electing the 2 United
Churches (Christ & St Peter) into independent
corporations (page 18 of the bound copy of the
Charters and By-Laws), contains rather ^{an} explicit
and explicit grant of authority to make
"from time to time" rules, by-laws and
ordinances, and to do anything "needful for the
good government and support of the Church"
that it would be altogether superfluous,
and a mere work of supererogation to

enter into an agreement to secure the existence
of the power to make all useful by-laws
for the Government of the Church.
Indeed it is perfectly clear that every
corporation possesses this power as a necessary
part and incident of its existence as a
corporation, even without any express grant
of such power in the charter. All business
corporations require by-laws and regulations to
enable them to transact their business - (and
a church corporation is, for this purpose, a business
corporation). Political corporations are
purposes institutions, and not corporations &
require no by-laws, because they are frames
of government & have no other business
except that of government, and for this purpose

their Constitution, and laws made in pursuance
of them are the org machinery necessary for the
pursuance of the purpose for which they
exist. Therefore neither the Constitution of the
United States, nor that of Pennsylvania, nor any
other State, knows any thing of by laws -
By laws are mere temporary enactments of
regulation, which the Legislature may repeal
at any time, ^{in a manner} ~~in~~ which is
in accordance with their own
rules. It does not appear to be necessary
to add any thing more, except to say
that the new By laws proposed by Mr. Wm.
White Jr. copies of which have been sent to me,
are, both of them, in all respects Constitutional,
and no legal objection or obstacle exists
to their adoption. Indeed it seems a
little strange that such by laws have

If proper, will you tell me what action the Association will take today. Dr. J. and Dr. A. all have who had

before, but I have no feelings equal to a talk until now.

My strength comes very slowly.

Yours most sincerely,
Catherine K. Meredith.

I omitted to add, that I have not heard from Dr. J. since Monday, and he has not been back!! I read him my correspondence with Mr. Cretch.

been exposed to his action had come Monday, I

Write would too

1877

April 26th, 1901.

126, SOUTH VAN PELT STREET.

My dear Mr. White:

I have seen
Dr. Sterens, and he makes
emphatic denial of what
you told me — that is,
in general terms.

When I said to him:

"
But you told me that

but Doctor Stevens said he would come
again, which I begged him to do.

I want very much to have another talk
with you — and write to ask if you
can come on Monday afternoon at 5 —
or any other afternoon or evening that
suits you.

I would have sent you

those gentlemen had had
timely notice", he replied
"Well, I supposed so!"

To which I: Dr. Stevens it
was not a case for supposi-
tion; my action, with
regard to the vote, rested
on it."

His visit was on Monday
morning, and was here
interrupted by the Doctor.



I want to have another
talk with you before
finishing mine with
Dr. Stevens - for I must
see him again.

So if you can come
tomorrow (Saturday)
afternoon, or evening,
perhaps it would be



better.

Will you kindly
drop me a postal card,
telling me the day
and hour? -

I am sorry I
crossed that other
sheet.

he has no weight whatever
on the Vestry - he has brought
forward certain action from
time to time, and his views
have never been accepted -
he's always turned down.

When he still saw that he
could not move me, just
as he was going, with a slight
touch of anger in his tone
& manner, he turned and
said: "Mr. White is young:
he means no harm; he thinks
he's doing God service -:
whose service he is doing, you

My dear Mr. White:

In thinking the matter over, I have come to the conclusion that a personal interview would be better with Mr. Coates, so I have written to ask for one.

I was so tired on Saturday, when you were here, that I fear I

certainly a very good understanding
somewhere, but only knows how you
needed me on Good Friday -; you and
Mr. White will have to settle the dispen-
sary. It was then that he said in rather
a flippant way as usual: Oh, Mr. White
will come all right - he has done this sort
of thing before - he doesn't mean any
harm; he's young, and you know, (Mr. White)

expressed myself badly, and
I forgot some points.

(It was the first day I had
been out.) —

On Monday last, when Dr. Sterens
found he could not trust me
into saying that I took
his word & Mr. Lorette's
rather than yours, which he
tried hard to do — I re-
plied, at last, with great
innocence — Dr. Sterens, I
know Mr. White to be a
man of honour — ; there is



can judge" — and he left
the room.

Last evening I saw Mr. Redner
after Holy Trinity Service,
and told him I wanted
to ask a question, the
reason for which I could
not give him — Had
Dr. Stevens any part in
calling Dr. Tomkins here?
You should have seen his
look of utter & complete

April 29th 1901 -

(Dr. Hearn, who Smith told me, had said to her & her James
Biddle on 22 miles that it was *Chrysophanum*, mostly, that
Dr. Thompson was called to study Smith. 10. 10. Dr.)

"
Surprise: Dr. Stevens, none,
whatever, absolutely none!

He added that he did
not even know before that
they were acquainted.

Let me hear from
you, or see you some-
time.

Thanking you for your
patience with my long-
winded notes,

I am very sincerely yours,
Catherine K. Meredith.

the Church is ended." He cried
twice during the interview, he
told me more stories, tried
flattery, and tried to silence me,
"by saying that the Vestry had
declared the incident closed &c.
I assumed him it was not closed
so far as his character affected
the welfare of the Church.

I prefer that you should not
mention this interview until
I have had a chance to tell
you all. My days are quite
full now, but I will try

and name a
time that will
suit me both, for
you to call soon.
My dear Mr. White:
I would not go
to see
Dr. Hennes -
it will
do no good,
I am afraid
you hear what he
told me today.
Yours very sincerely,
L. K. Meredith.

126, SOUTH VAN PELT STREET.

two notes from which I thank
you. Yes, I have been able to
go out the last two days, & I
really think I am better.
I have no objection whatever to
your having, in writing, an
account of my interview with

Dr. Sterens, and I send it on a
separate sheet. You can make
any use of it you choose.

I had a most painful and trying
visit from him today lasting for
over two hours.

The details I should like to give
you in person, I cannot write
them now, for I am too tired.

But it ended in my telling
him that, unless the matters
were satisfactorily explained,
which he had not succeeded

in explaining to me, I should
think it my duty to ask the
Vestry to ask for his resignation,
that I did not think a man
whose word could not be
trusted should be Rector of
Linnick Church. He said, that,
under no circumstances, would
he resign. I replied Very well;
that is your responsibility; &
what action the Vestry may see
fit to take, is theirs - mine is
ended, in telling you both that
I consider your usefulness at

does not write within a day or
two, I shall communicate with
him again.

I said to Mr. Coates, as I also
said to Dr. Stevens, and I shall
continue to say to all the Vestry
that I can reach, that, in my
judgment Dr. Stevens's usefulness
as the Church is over, and that,
if he does not resign, his resign-
ation should be asked for.

This, as one of the oldest members
of the Congregation, I consider I

May 3rd 1901 -

126, SOUTH VAN PELT STREET.

May I ask you not
to destroy this
Statement as it
is the only copy
I have.

Mr. White:

This is my statement of what occurred between the rector and myself.

You can make any use of it you choose - only, I think it wise, for a time at least, not to speak of our matters too much to

outside persons.

I had a very satisfactory
visit from Mr. Coates - in
that he listened to all
that I said, and promised
to give the matter his most
careful consideration.

He did not commit himself to
any action, which, of course,
was the right and proper
attitude for him to take.

I had the enclosed note from Mr. Newbold, (which please return,) in reply to one from me, asking for an interview. I did not go into the matter, in any way, with Mr. Newbold in my note.

I have already asked Mr. Keith for an interview, but he has not yet replied. Mr. Coates thinks it important that I should see him; and if he

to those in authority, I shall
express my strong conviction.

I want very much to see
you - . When can you come?
Not tomorrow afternoon, but I
am pretty free next week.

I write in haste, so pray
excuse any mistakes.

You are at liberty to shew
this note to any one you like,
including the rector himself.

Yours very sincerely,
E. R. Meredith.

have a right to say, nay that it
is my duty to say.

Here my responsibility ends.

And I distinctly disclaim any
intention of dictating to the

Vestry. I am only stating the
case, as it now seems to me.

On other evidence I might,
possibly, change my mind —;
but, up to this time, although
I have intimated that other

evidence none has been forthcoming.

I know full well that the

Testry is bound to look after

the temporal affairs of a

Panish. I know how much

Dr. Herens has done in this

regard - of raising money for

the endowment; I think

him today, the ablest preacher,

in Philadelphia in the

Episcopal Church - I know

him to be a man of great
learning, and an agreeable
conversationalist — ; but
I find that his word is not
to be trusted, either in great
or small matters; — and for
this, and other reasons which
I do not now care to state,
I consider that he should no
longer remain rector of
St. Michael's Church. And to all
who are interested, especially

Statement

On the afternoon of Good Friday, April 5th, 1901, the Reverend Dr. C. Ellis Stevens called to solicit my vote for ⁽¹⁾ Dr. Mr. John S. Newbold and Mr. William Easterly Ashton on the Vestry, to replace Dr. John C. De Costa, and Mr. R. Francis Wood.

He stated the reasons why they should be displaced — but before doing this, at the very beginning of our conversation, I said: and said it very emphatically:
"Dr. Stevens, before we go another step in this, let me clearly understand one thing — have these gentlemen had timely notice of this intention, so that they can fully marshal their forces?"

To which he replied, looking me full in the face:

"Miss Meredith they have had."

This he said in his usual tone of voice, ^{(2) Afterwards} he did mumble something, which I hardly caught, but which sounded like "will have"; as, up to this time, I had not doubted his veracity, of course I took his assertion as true.

He then told me that, as regarded the Hospital matter the Managers of Christ Church had been "instructed" to vote for the admission of the State Board of Chautauques - and, not only at this visit, but before and since, he has led me to believe that instruction in this case, is equal

to a command. That Church Vestry was much aggrieved at the Managers taking different action, and when brought to account by a fellow-Vestryman, either Dr. Da Costa, or Mr. Wood, or both (I cannot now recall which,) replied: The remedy is in your own hands, you can, with the help of the congregation, turn us off as Easterners. "which we now propose to do Miss Meredith," Dr. Stevens added, "this is why I want your vote."

(I am not quite sure whether the words, "with the help of the congregation," were quoted by Dr. S., as said by one, or both, of the two gentlemen, or were his own words, but he used them.)

"
 I do recall very distinctly - This is
 their ultimatum, and we accept
 their own terms."

I inquired how often Dr. Da Costa
 came to the Church, and he said
 no more than three (3) times a year.
 I understood that we had our full
 representation from the Chapel with-
 out Mr. Wood; and I agreed with
 him that, if good men can be found
 for the Vestry, who do attend Church
 regularly, it is better to
 have them. I added however:

"
 But Dr. Stevens I didn't know that
 Dr. Ashton came to our Church at all."
 "Oh yes," he replied, he has taken a

pew and he comes regularly; he has all winter." — Before my vote was promised, he went on to say:

Miss Meredith, this is only a culmination of many things in our Vestry, which I do not care to go into with you now —; but Dr. Da Costa's conduct has been such that, for a long time, many of the best men of the Vestry indeed "most" or "all" (I can't recall which,) have felt we must get rid of him. ^{"I do not remember that he included Mr. Wood in this"} I then promised my vote, but in the conversation, I dwell much more upon the fact of the non-attendance at the old Church of the two men, than on the Hospital question;

and also on the fact that one of the
two proposed new men, namely,
Mr. John S. Newbold, was the very
man I had picked out in my
own mind, as a fit person to serve
the Parish in this way, some months
ago. - I declined, by note, to be in
the Church at the hour of voting
to give information to any who might
not know the points at issue."

I did take Miss Bache, at Dr. Stevens's
suggestion, because he said the vote
would be close. She asked how I
meant to vote, and I told her, and
advised her to vote the same way.
I did not watch her after she
reached the Church, and she could

have cast any vote she liked.

Dr. Sterens told me on Friday that it would not be proper for him to be present during the election, and that he would not be. (3) see ←

After your visit to me on April (?) I made this note to Dr. Sterens.

April 19th 1901 -

My dear Dr. Sterens:

I have been greatly annoyed by the report that I was active in the movement to turn out the two Vestrymen at Easter. I gave but little heed to this at first, but now it comes to me in such a way that I am forced to

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notice it.

I am told that this impression was given by both you and Mr. Brette. You certainly remember that I knew nothing of this movement until you told me yourself on Good Friday afternoon.

I write to ask if you will not be at some pains to correct this wrong and unjust statement.

x x x x x x (The omissions were simply about my not being able to go out, under the Doctor's orders, or I should have called to see Dr. L.)

Yours very sincerely,
Catherine K. Meredith.

My kind regards to Mrs. Stevens.

This note was mailed early in the evening of April 19th, (Friday.) I heard nothing from the Rector until about 11 a. m. of the following Monday, April 21st, when he called.

He treated the whole matter as of but little importance, a slight misunderstanding that could be easily cleared up. When I pinned him down about the statement he had made to me on Good Friday, he replied: "Well, I supposed they had been notified."

"Oh Dr. Stevens," I said, "it was not a case for supposition: you knew that my vote depended upon your answer!" — Just then, the

Doctor Came, and his visits lasting
 about 30 minutes, I was obliged to
 let Dr. Stevens go, although he asked
 to be allowed to wait - he offered
 to return that afternoon; this I
 was forced to decline as Miss Smith
 and Miss M^{rs}. Vicker were coming
 by appointment. And I had engage-
 ments, also, on Tuesday; but I urged
 his coming on Wednesday, or any
 day after at any hour, and I thought
 he so understood it. ^{On the following Tuesday, he} ^{said he thought I had}
^{told him not to call}
^{again!}
 Hearing nothing, and not being well
 enough to go out, I wrote on
 Monday April 29th 1901:

(The first part of the note had to do

12.
11

with sending him the Second Volume
of Bishop Brooks's Life, which I
had promised him — then I added:)
"I had fully expected to see you
again to finish our interrupted
conversation of the other day.

For, to be frank with you, I feel
very unhappy indeed about the
condition of affairs at Christ Church."

Yours very sincerely,

Latherine K. Meredith.

On Tuesday, April 30th, 1901, he
called and stayed over two hours.

He talked aside of the mark, at
great length — told me I was ac-
cusing him on hearsay evidence —
oc. oc. —:

When I again pinned him down about my own experience on Good Friday, he said that the two Vestrymen had been notified, that, since his last visit to me, he had been so informed by two members of our Vestry. I asked for their names, which he declined to give me. I am sorry to have made this Statement so long, but I have tried to cover all the ground. The details of our last conversation, which was a very painful one, I have not gone into, as this is meant to be a plain Statement of facts, so far as I am concerned, in this unfortunate affair, ^{(4) down to that last interview.}

May 3rd 1901 -

Latherine K. Meredith.

And so it seems just as I feared.
Much valuable time has been lost,
and the delay has given the
Rector the chance to entrench
himself all the more strongly.

Just so soon as the facts were
known, was the time to act;—
and I never could see what the
Vestry were waiting for. The sig-
natures for Dr. Stevens, could, no
doubt, have been gained against
him, had the facts been put be-
fore the Congregation.

I suppose if we must choose

June 21st 1901.

126, SOUTH VAN PELT STREET.

My dear Mr. White:

I did not mean
to give you the trouble of having
the Statement type-written - but
I thank you very much.

I had promised Miss Paul to
let her know what action, if
any, was taken by the Vestry,
and in her reply she says:
I wonder if you have heard
that Dr. Stevens took a paper

to Sunday-School one afternoon,
and asked the teachers to sign
it, to show their approval of his
remaining as Rector of Church
Church &c. I received a note
from Dr. Stevens enclosing the
paper, and he said it was being
generally signed by the Congrega-
tion, and that it was very
gratifying to him. He furthermore
said: I do not ask your signature,
but of course would greatly value
it, if you can sign it sincerely.
I replied that I could not

conscientiously sign it, but that
I would be most loyal to him
so long as he remained Rector
of John's Church.

I suppose you will think this
was a very strange thing for me
to write, but I feel it is my duty
to be loyal to a Rector so long
as he is in charge of a Parish.
But I think that Dr. Stevens use-
fulness at John's Church is
ended, and if there is any
way in which I can help to
make him resign, I will
certainly do it." —

2) the harmlessness of the dove
is better than the wisdom of
the serpent — but truly, some-
times, a little of the latter
is good!

I consider, and have said so
from the first, that every
day's delay is just so much
in the Rector's favour, and
just so much against me.
I feel now, as if it were
almost hopeless — I hope it

is not —; but we must
act, and act with decision
and promptness, if anything
is to be done.

I mean, of course, in the
fall —; I know nothing can be
done now. And why did not
Mr. Newbold attend the Vesky
meeting, to make a Luomum?

Excuse this upside-down
paper — I am in great haste,
but am as always,

Yours most sincerely,
Catherine K. Meredith.

Philadelphia, November 18, 1901.

William White, Jr., Esq.,

My dear sir:-

I have given careful consideration to the questions propounded in your letter of October 16th. I think that answers to all of them will be found in the following opinion.

The Protestant Episcopal Church in this country is a voluntary association of Christians, the basis of whose association is a constitution adopted in General Convention in October, 1789. This constitution presupposes the existence of dioceses and recognizes the right of diocesan conventions to legislate. The constitution, when adopted, was silent respecting the status of rectors of parishes and their tenures of office. No provision on this subject has ever been added by amendment.

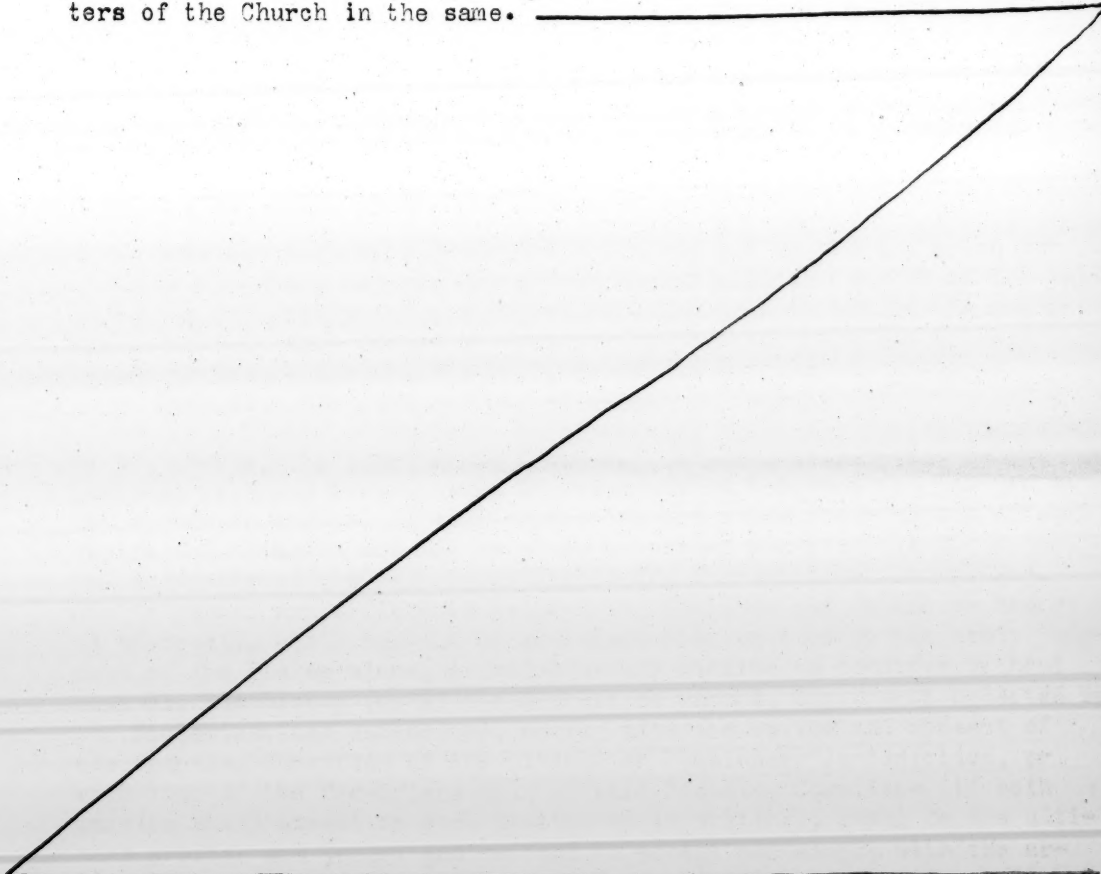
An examination of the Canons adopted from time to time by the General Conventions of the Church discloses certain enactments which have some bearing upon the matter.

Canon 18 of Title I, provides (Sec. i) for the registration by the diocesan authorities of the name of a minister chosen rector of a parish and empowers the Bishop or President of the Standing Committee, if the rector be a presbyter, to have him formally instituted. Turning to the Office of Institution in the Book of Common Prayer, we find provision for the sending by the Bishop to the new rector of a Letter of Institution, the last paragraph of which is as follows:-

"And as the Lord hath ordained that they who serve at the altar should live of the things belonging to the altar; so we authorize you to claim and enjoy all the accustomed temporalities appertaining to your cure, until some urgent reason or reasons occasions a wish in you, or in the congregation committed to your charge, to bring about a separation, and dissolution of all sacerdotal relation, between you and them; of all which you will give us due notice; and in case of any difference between you and your congregation, as to a separation and dissolution of all sacerdotal connection between you and them, we, your Bishop, with the advice of our Presbyters, are to be the ultimate arbiter and judge."

With reference to this paragraph a rubric makes the following provision:-

"In any Diocese, the concluding paragraph in the Letter of Institution may be omitted, where it interferes with the usages, Laws or Charters of the Church in the same."



From the resolution of the Vestry of Christ Church passed November 20th, 1891, it is a fair inference that the present rector was duly instituted. Whether the letter of institution sent to him included the above paragraph does not appear. The fact is not, however, important. The significant point to be noted at this time is that, under our Church system, the election of a rector, is not a matter of purely private concern, between himself and the electing parish, but a matter of diocesan concern. The obvious intent of the Church is to make the rector's tenure of office a thing independent of the will of the Vestry wherever local "usages, laws or charters" do not make this impossible. In keeping with this principle is the provision of Sec. vi (3) of the same Canon relative to the function of the Bishop respecting complaints to be submitted to him by a parish in case the rector fails to conduct the regular services. Even such neglect is not regarded as a ground for summary action by the Vestry.

I pass over provisions for the trial of ministers and for the instituting of inquiries in case of rumors damaging to character. They have no relation to the facts of the case that you are interested in; and, moreover, these provisions do not affect primarily the relation between rector and parish but the relation between the Priest and the Church at large.

I come then to Canon 4 of Title II, concerning differences between Ministers and their congregations and of the Dissolution of a Pastoral Connection. This Canon is as follows:-

Sec. i. A Rector, Canonically elected and in charge, or an Instituted Minister, may not resign his Parish without consent of the said Parish or its Vestry (if the Vestry be authorized to act in the premises); nor may such Rector or Minister be removed therefrom by said Parish or Vestry against his will, except as hereinafter provided.

Sec. ii. In case any urgent reason or reasons should occasion a wish in a Rector or Minister as aforesaid, or in the Parish committed to his charge, to bring about a separation and a dissolution of all pastoral relation between said Minister and Parish, and the parties be not agreed in respect of such separation and dissolution notice of such desire and disagreement may be given by either party to the Ecclesiastical Authority of the Diocese or Missionary Jurisdiction, in writing. And in case of any difference between the Minister and Parish or Vestry as aforesaid, which may not be satisfactorily settled by the godly judgment of the Bishop alone, or which he may decline to consider without counsel, the Bishop (or if the Diocese be vacant, any Bishop selected by the Ecclesiastical Authority), acting with the advice and consent of the Standing Committee of the Diocese or Missionary Jurisdiction, or with that of the Presbyters only of said Standing Committee (if both parties shall assent to such limitation in writing), shall be the ultimate arbiter and judge; and refusal to accept and comply with the arbitration and judgment on the part of the minister aforesaid, shall not

work a continuance of lawful and canonical Rectorship or settlement beyond the date fixed, conditionally or otherwise, for its termination by such arbitration and judgment, should such termination be recommended and required; but such pastoral connection shall, unless otherwise agreed by the parties, cease and terminate as therein required. But such refusal shall subject the Minister so refusing to inhibition by the Bishop aforesaid from all ministerial offices and functions within the Diocese or Missionary Jurisdiction; and such refusal on the part of a Parish shall disqualify it from representation in the Convention of the Diocese until it shall have been declared by the Ecclesiastical Authority to have given satisfactory guaranties for the acceptance of and compliance with the arbitration and judgment

Sec. iii. In case of the regular and canonical dissolution of the connection between a Minister and his congregation, the Bishop, or if there be no Bishop, the Standing Committee, shall direct the Secretary of the Convention to record the same. But if the dissolution of the connection between a Minister and his Congregation be not regular or canonical, the Bishop or Standing Committee shall lay the same before the Convention of the Diocese, in order that the above mentioned penalties may take effect.

Sec. iv. This Canon shall not be force in any Diocese which has made, or shall hereafter make, provision by Canon upon this subject, nor in any Diocese with whose laws or charters it may interfere.

It is clear that this Canon is an embodiment of the same principle which is emphasized in the Letter of Institution. Considering the legislation of the General Convention as a whole, I have no difficulty in reaching the conclusion that it contemplates the reference to the Bishop (either alone or in conjunction with the Standing Committee) of "any difference between the Minister and Parish or Vestry." Upon such reference the Bishop is the ~~arbitrator~~ "ultimate arbiter and judge". Final or independent action upon the part of the Vestry is excluded.

If, therefore, the difference which has arisen, or is likely to arise, between your rector and the vestry were one to be dealt with only on the basis of the Constitution and Canons of the General Convention, my conclusion would be that the vestry has no way of dealing with the situation other than by petition to the Bishop for a dissolution of the pastoral relation. But, as noted above, diocesan legislation on such subjects is consistent with the Constitution of the Protestant Episcopal Church; and the last paragraph of Canon 4, just quoted, \suspends the operation of the Canon in dioceses where there are "laws or charters" inconsistent with its terms.

An examination of the Constitution and Canons of the Protestant Episcopal Church in the Diocese of Pennsylvania discloses no such inconsistency. Indeed these documents are silent on this phase of the pastoral relation. I pass over, as before, provisions respecting the trial of a clergyman for "a

violation of any law of the Church" and those respecting inquiries into the foundation of injurious rumors. The conclusion on this head, therefore, is that diocesan legislation has not, in Pennsylvania, required the suspension of the Canons of the General Convention.

It remains to consider the status of a rector under the common law, including under this head the legal operation of the charter of Christ Church. Before proceeding to do this, I may summarize the result of my investigation down to this point as follows:- In case of a difference between a rector and his parish the vestry are without right to terminate the pastoral relation no matter how serious the difference may be. If they lay the matter before the Bishop for decision, they are bound by his judgment. If they refuse to abide by it, or if they attempt to sever the relation without an appeal to the Bishop, the parish will be disqualified from representation in the diocesan convention.

Turning to the common law aspect of the case, it may be observed that generally throughout this country effect has been given by the civil courts to the policy disclosed by the canons of the General Convention. Such was the decision in New York in *Youngs v. Ransom*, 31 Barb. 49. I quote from the opinion:-

"Mr. Ransom was not called nor did he agree to preach to this Church for a year or for any specified time, nor at the will of the Church or Vestry. He was called to take charge of the parish as Rector, and settled as such. It is not, and cannot be denied, that the rule or regimen of the Episcopal Church as to the tenure of its parish ministers is that when they have once been placed in charge of congregations, they can neither leave nor be dismissed, except by mutual consent, without the intervention of the Bishop. Without discussing the power to make, or the propriety of, agreements for the performance of clerical service, limited in time, I think it very clear that when a minister is called or settled in an Episcopal parish without any such limitation, he can only be dismissed, or sever the connection by mutual consent, or by superior ecclesiastical authority on the application of one of the parties. The 33rd Canon of the General Convention of 1832 is very explicit to this effect."

The Canon referred to is Canon 4 of Title II under the present arrangement. A decision in harmony with this one is *Bird v. St. Mark's Church*, 62 Iowa 567, where the vestry is denied the right to accomplish the dismissal of the rector indirectly by reducing his salary. The courts have been inclined to adopt the English views that the rector is a constituent part of the corporation; that in virtue of his office he is legally possessed of the Church

property; and that an attempt by the Vestry to deprive him of the use of the Church buildings or of access to them is an actionable wrong. The thought is that the rector has as much (or as little) right to get rid of the Vestry as the vestry to get rid of him. See, for example, *Lynch v. Menzie*, 33 N.J. (4 Vroom.) 162. Putting the case for the rector at its weakest, there seems to be no judicial justification for hostile action by the vestry without the presentation of written charges and the affording to the rector of a fair opportunity to be heard in his own defense. As, however, the Canon contemplates the Bishop as the tribunal to pass on these charges and as the courts appear to give effect to the Canon, there seems to be no escape from the conclusion that an appeal to him is the method of dissolving the pastoral relation which the municipal law prescribes. To this effect is the Pennsylvania decision in *Batterson v. Thompson*, 8 Phila. 251. In that case, injunction was granted by Judge Ludlow to restrain interference with a rector by a vestry where it appeared that no canonical dissolution had taken place but that the vestry had assumed to dismiss the rector against his will and without a trial.

As has been pointed out, however, the conclusion thus far reached must be modified if the canonical theory of the rector's tenure, as recognized and enforced by the civil courts, is controlled in this particular instance by the Charter or By-laws of Christ Church.

I do not find in the Christ Church charter any provision which throws light on the problem in hand. The office of rector is frequently referred to, but not otherwise than in most old charters. The by-laws, however, deal specifically with the question and to them must be assigned the force of law. Do they disclose a theory of tenure inconsistent with the canonical theory? Article III (as it appears in the by-laws of 1851) is as follows:

OF THE CHOICE OF A RECTOR AND ASSISTANT MINISTER.

I.

As often as the Rectorship of this church shall become vacant, another rector shall be appointed; and there shall be at least nine of the vestry absolutely consenting and voting for such Rector.

But nothing herein contained shall make it necessary to re-elect as Rector, any Assistant Minister who shall be chosen Assistant to become Rector upon the demise of the present Rector; according to the charter.

II.

As often as it shall be thought expedient by vestry to elect an Assistant Minister, the Rector and at least seven of the Vestrymen shall absolutely consent and vote for such Assistant Minister.

III.

Whenever there shall be an election for Rector or Assistant Minister, publication thereof shall be made in the church on the first ensuing Sunday that there shall be divine service therein, after such election; and if within one calendar month after publication, a majority of the members entitled to vote for vestrymen shall declare in writing, to vestry, that they object to such election, then the same shall not take effect, but be considered void, and the vestry shall not renew their proceedings with regard to such election, during the year for which they were elected.

IV.

The vestry may exercise all the powers which appertain to the corporation in regard to dissolving the connection between the church and its Rector, or Assistant ^{Minister} Ministers, and to the dismissal of the same; but no vote of dismissal, or for dissolving the said connection, shall take effect, if after publication as in the proceeding by-law, which it is hereby declared shall be made as in the case of an election, a majority of the said members shall in manner aforesaid declare their objection to the same.

V.

No proceeding shall be held by vestry for electing or dismissing any Rector or Assistant Minister, or for dissolving the connection between the same and the church, unless after notice of the time and place of meeting as in other cases, and in addition thereto, a statement in writing upon the notice, setting forth that the meeting of vestry is particularly convened to consider of such election, dismissal or dissolution of connection.

The word "Assistant" in Sec. I is followed in the by-laws of 1832 by the word "Minister". The third word of Sec. IV. is "shall" in the earlier edition. With these exceptions the by-laws of 1851, and at present, are identical (as to this Article) with those set forth in the revision of 1832. This Article is, then, of long standing. It has been passed upon, as appears from the records of the parish, by men of eminent legal ability. It was of course in force on September 28, 1891 when your present rector was elected and on October 5th of the same year when he notified the Secretary of the vestry of his acceptance of office.

There is little or nothing of special significance in the first or second sections of the Article. The third section indicates that the vestry may not exercise all the powers of the corporation in regard to the election of a rector, for it is provided that after an election by the vestry the vote of the majority of the members of the parish entitled to vote for vestrymen shall have the effect of a veto upon such election. The fourth section is the important one. It provides that the vestry may exercise all

the powers which appertain to the corporation in regard to dissolving the connection between the church and its rector and to the "dismissal of the same". There is probably not much significance in the substitution of the word "may" for "shall". As the section stands at present, it should seem that preliminary action for the purpose of dissolving the pastoral connection may be taken by the Vestry but that if the vestry do not act, such action may be taken by a meeting of the persons entitled to vote for vestrymen. If the word "shall" had remained, it should seem that the vestry only could move. In either event, however, the action of the vestry in the premises is subject to a veto similar to that provided for in the case of election. These circumstances make it necessary to modify to some extent the operation of the broad statement that "all the powers" of the corporation in this matter are exercisable by the vestry. Reading the section as a whole, it can mean nothing more than that the vestry may exercise the powers of the corporation in respect of a preliminary declaration in favor of dismissal which is then to be brought before the members of the parish for final action.

There can be no question but that there is in this section of Article 3 some implication of a right upon the part of the corporation (acting through vestry and meeting of members) to dismiss the rector. The question is whether this implication is strong enough to suspend the operation of the ~~Canons~~ of the General Convention. Two views upon this subject are possible. One view is that Article 3 of the by-laws, being not inconsistent with the charter of Christ Church, is a valid reservation by the corporation of its right to terminate the pastoral relation in the manner therein provided for. The other view is that Article 3 is to be so read in its relation to the legislation of the General Convention as not to bring the two into conflict but to produce harmony between them; and that (when thus read) Article 3 becomes merely a specification of the steps which must be taken by the corporation before a corporate appeal can properly be made to the Bishop under the Canon for the dissolution of the Pastoral Relation.

If the courts had been less explicit in their determination to protect

the rector's tenure and to give effect wherever possible to the general policy of the Church in this matter, I should incline to the view that the corporation might dismiss the rector without any other formalities than those provided for in Article 3. In view of the attitude of the courts, however, (to which great weight must be attributed in this connection) I feel bound to advise you that a decision in favor of the rector's unlimited tenure would probably be rendered if the corporation of Christ Church were to undertake to dismiss the present rector otherwise than in the manner provided for in the Canons. In favor of such a decision weighty considerations could be adduced as tending to show that the permanency of the rector's tenure of office is in the long run the best thing for the Church. Any argument to the contrary can be met by the answer that a parish desiring to make an arrangement determinable at any time may so stipulate with the rector when he is called. Such a stipulation whether contained in charter, by-law or contract should be clear and explicit in its terms in order that it may operate to displace the general policy of the Church. The provisions of Article 3 of your by-laws are neither clear nor explicit upon this point and in my judgment they do not justify you in taking the action which you contemplate.

Yours very truly,

George Harton Pepper